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IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION [INICOME TAX]
ORIGINAL SIDE

ITAT/87/2025
IA NO: GA/1/2025, GA/2/2025

PRINCIPAL COMMISSIONER OF INCOME TAX 5 KOLKATA
VS
THE RIFLE FACTORY CO OPERATIVE SOCIETY LTD

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
DATE : 5th May, 2025.

Mr. Tilak Mitra, Adv.
Mr. Prithu Dudheria, Adv.
…for appellant.

Mr. Somak Basu, Adv.
Mr. Swagata Kabiraj, Adv
. … for respondent.

The Court : There is a delay of 104 days in filing the appeal. As the delay has been properly explained the same is condoned. The application is allowed.

This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 21.06.2024 passed by the Income Tax Appellate Tribunal "C" Bench, Kolkata (the Tribunal) in ITA/813/Kol/2023 for the assessment year 2017-18.

The revenue has raised the following substantial questions of law for consideration :

"a. Whether on the facts and in the circumstances of the case, the Hon'ble ITAT has erred in law in upholding the decision of the CIT(Appeals), NFAC deleting the addition of Rs. 3,77,62,052/- made on account of enexplained cash deposits in all bank accounts during the demonetization period without considering the fact that no communication calling Remand Report was received by the Assessing Officer from NFAC(Appeal) and the CIT(Appeal) accepted new evidences in the form of bank statements in contravention to the provisions of Section 46A?

b. Whether on the facts and in the circumstances of the case, the Hon'ble ITAT has erred in failing to recognize that the addition on account of unexplained cash deposits during the demonetization period was made on account of deposits in all the declared/undeclared bank accounts including the accounts held with Axis Bank and West Bengal State Cooperative Bank by the assessee and not only in the account maintained with State Bank of India?"

We have heard Mr. Tilak Mitra, learned senior standing Counsel assisted by Mr. Prithu Dudheria for the appellant and Mr. Somak Basu, learned Advocate for the respondent.

The revenue was unsuccessful in their attempt in challenging the order passed by the first appellate authority dated 11.5.2023 before the learned Tribunal which dismissed the revenue's appeal by the impugned order. The question which fell for consideration before the first appellate authority was whether the high pitched assessment made by the assessing officer vide assessment order dated 18.12.2019 in respect of the respondent Co-operative Society was justified. The first appellate authority while allowing the assessee's appeal by order dated 11.05.2023 has elaborately considered the factual situation and perused the voluminous documents which were placed by the assessee before the CIT(A). The learned Tribunal noted that despite direction issued by the CIT(A) to the Assessing Officer to file a remand report on the documents and details furnished by the assessee, the assessing officer failed to furnish any remand report. Therefore, the assessee was granted an opportunity by the CIT(A) took place documents before it which was considered and a decision was taken. Once again, before the learned Tribunal the revenue has given an opportunity to rebut the contention raised by the assessee and to demonstrate as to how the CIT(A) committed an error.

We find from the reasoning given by the learned Tribunal, the revenue miserably failed to do so.

Thus, we find no question of law much less substantial question of law arises for consideration in this appeal.

Accordingly, the appeal fails and the same is dismissed.

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(T.S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)

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